

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Lonnie Cloninger and Teresa Branton )  
 Dist. 5, Map 78N, Group A, Control Map 78K, ) Jefferson County  
 Parcel 16.00, S.I. 000 )  
 Residential Property )  
 Tax Year 2006 )

### INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$77,600	\$319,200	\$396,800	\$99,200

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 1, 2006 in Dandridge, Tennessee. In attendance at the hearing were Lonnie Cloninger, the appellant, and Jefferson County Property Assessor's representative Susan Gass.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 5.38 acre tract improved with a log home constructed in 2005. Subject property is located in the Paradise Landing Subdivision in Dandridge, Tennessee. The subdivision consists of sloping lots either fronting Douglas Lake or overlooking the lake. Most homes in the subdivision are of log construction and range in size from 1,700 – 3,000 square feet of weighted area. The similarity of all of the lots and homes creates a highly uniform community.

The taxpayer contended that subject property should be valued at approximately \$300,000. In support of this position, the taxpayer introduced an appraisal report prepared by Jack Purkey which estimated subject property's market value at \$280,000 as of June 6, 2006. In addition, the taxpayer introduced proof of insurance showing that the dwelling is insured for \$212,500 and other structures for \$31,900. Moreover, the taxpayer testified that he has invested a total of \$266,500 in subject property. Finally, the taxpayer stated that he did much of the building himself.

The assessor contended that subject property should be valued at \$396,800. In support of this position, Ms. Gass introduced a sales comparison approach. Ms. Gass maintained that the current appraisal of \$109.79 per square foot of weighted area appears reasonable insofar as the comparables commanded a minimum of \$112.47 per square foot of



weighted area. As will be discussed below, Ms. Gass also took issue with several components of Mr. Purkey's appraisal report.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$396,800 as contended by the assessor of property.

The administrative judge finds that Ms. Gass' sales comparison approach constitutes the best evidence of value. The administrative judge finds that all of the comparables considered by Ms. Gass were log homes located in subject subdivision. The administrative judge finds Ms. Gass was well prepared and her testimony highly persuasive.

Respectfully, the administrative judge finds that Mr. Purkey's appraisal report cannot receive any weight for two reasons. First, Mr. Purkey was not present to testify or undergo cross-examination. See, e.g., *TRW Koyo* (Monroe Co., Tax Years 1992-1994) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .

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. . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2. Second, Ms. Gass raised a number of legitimate questions about the appraisal that Mr. Cloninger obviously could not answer. For example, none of Mr. Purkey's comparables were located in subject subdivision nor of log construction. Moreover, Ms. Gass pointed out problems with Mr. Purkey's adjustments as well as his cost approach.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$77,600	\$319,200	\$396,800	\$99,200

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.




Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of November, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Lonnie Cloninger and Teresa Branton  
Robert Cavanah, Assessor of Property